IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE V.GIRI

TUESDAY, THE 4TH SEPTEMBER 2007 / 13TH BHADRA 1929

WP(C).No. 20082 of 2005(N)

PETITIONER:

T.AJITHAKUMARI,
H.S.A. (MATHEMATICS), GOVERNMENT V.H.S.NEDUMKANDAM

BY ADV. SRI.MVS.NAMPOOTHIRY

RESPONDENTS:

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1. STATE OF KERALA,
REPRESENTED BY THE SECRETARY TO GOVERNMENT,
GENERAL EDUCATION DEPARTMENT, SECRETARIAT,
TRIVANDRUM.

2. THE DIRECTOR OF PUBLIC INSTRUCTIONS,
TRIVANDRUM.

3. THE DY. DIRECTOR OF EDUCATION,
IDUKKI AT DY.DIRECTOR'S OFFICE, THODUPUZHA.

4. THE DISTRICT EDUCATIONAL OFFICER,
KATTAPPANA.

BY GOVERNMENT PLEADER, SRI.NANDAKUMARI

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 04/09/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

EXT. P1: COPY OF THE PROCEEDINGS ISSUED BY THE HEADMISTRESS.

EXT. P2: COPY OF THE PROCEEDINGS NO.D3/9534/03 DT.22.10.2003.

EXT. P3: COPY OF THE REPRESENTATION SUBMITTED BY THE PETITIONER ALONG WITH THE FORWARDING LETTER OF THE DY. DIRECTOR DTD.24.9.04.

EXT. P4: COPY OF THE COMMUNICATION ISSUED BY THE 2ND RESPONDENT DTD.16.3.05.

EXT. P5: COPY OF THE LETTER DATED 25-7-2005 ISSUED BY THE D.E.O.

EXT.P6: COPY OF THE LETTER DT. 6-8-2005 ISSUED BY THE HEADMASTER.

/TRUE COPY/

P.A. TO JUDGE

JP

V.GIRI,J.

W.P.(C) NO.20082 of 2005

Dated this the 4th day of August, 2007

JUDGMENT

The petitioner, while working as an HSA, opted for the higher grade with effect from 6.9.1993. 1997 pay revision order, published as per GO.(P) No.3000/98 dtd.25.11.1998, was enforced with effect from 1.3.1997. In the pay revision order the Government accorded sanction to draw the next increment after the pay revision on the pre-revision increment date, and accordingly, the petitioner was given increment on 1.9.1997. The petitioner later found that Smt.V.K.Vijayamma who was junior to her in the post of HSA had opted for the higher grade with effect from 1.6.1996 and in accordance with the permission granted under the pay revision order, she became entitled to an increment with effect from 1.6.1997. Apparently, the petitioner found that while her increment in the revised pay scale fell due only on 1.9.1997, her junior who had opted for higher grade only in 1996 became entitled to the increment on prior date. This, according to the petitioner, was an anomaly that had to be rectified.

2. The headmaster proceeded to rectify the anomaly, vide Ext.P1 order, on the premise that the senior cannot be drawing a pay less than that of the junior. The orders passed in this regard by the headmaster was interfered with by the Deputy Director under Ext.P2 order,essentially, on the

premise that the seniority list of HSA's was yet to be finalised. Therefore, anomalies in junior-senior fixation could be taken up only after such seniority list is published. The stand was affirmed by Ext.P4 passed by the Director of Public Instructions. Exts.P2 and P4 are under challenge.

3. The respondents have filed a counter affidavit explaining the fact that the petitioner had opted for pay revision as per G.O.(P) No.3000/98/Fin.dtd.25.11.1998, with effect from 1.3.1997. She had been sanctioned higher grade with effect from 6.9.1993. Smt.Vijayamma the other teacher - junior to the petitioner, had been granted higher grade only in 1996, but it so happened that the first increment subsequent to the date of enforcement of the pay revision order in the case of Vijayamma fell on 1.6.1997. In accordance with the pay revision order, increments were given to the two teachers, on the dates on which they fell due, which was in consonance with the pre-revision increment date. If there was an anomaly, it was open to the petitioner to take up the issue before the **A**nomaly **R**ectification **C**ommittee constituted under the pay revision order. This was not done. The headmaster had no jurisdiction to pass Ext.P1 order. It was rightly interfered with by Ext.P2.

4. I have heard the learned counsel for the petitioner as well as the learned Government Pleader. Obviously, the headmaster has no jurisdiction to rectify any anomaly in the pay drawn by the petitioner, vis-a-vis, the pay drawn by Smt.Vijayamma. Assuming that there was an anomaly, the remedy of the petitioner was to approach the Anomaly Rectification Committee. Apart from the same, the grievance of the petitioner seems to have arisen in

circumstances, whereby the junior had drawn higher grade with effect from 1.6.1996 and the pre-revised increment date, in so far as her junior is concerned, fell prior to the pre-revised increment date, in so far as the petitioner is concerned. It obviously led to anomaly, but, unfortunately, the petitioner did not move the appropriate authority at the appropriate time. Ext.P2 rightly interfered with Ext.P1. Exts.P2 and P4 cannot be faulted with.

In the result, the writ petition is devoid of merit and the same is dismissed.

V.GIRI, JUDGE

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